

**REMARKS/ARGUMENTS**

In the Office Action, the Examiner finds that claims 1-22, 25-44 and 61-63 are enabled for treatment of an infectious disease, autoimmune disease or allergic condition in a subject, but are not enabled for ameliorating or substantially preventing such disease or condition. The Examiner bases this position on what is deemed the state of the art as reflected in a publication of Quesniaux et al. that is said to indicate lack of predictability for amelioration or substantial prevention.

While Applicants do not necessarily agree with the Examiner's position and conclusions, the claims in this application have been limited to treatment of such diseases or conditions in order to expedite prosecution. Applicants reserve the right to continue seeking patent claims for other aspects of the invention, including prevention of such diseases or conditions, in further applications.

The claims also are rejected for obviousness-type double patenting over claims of U.S. patent 6,525,028.

Again, Applicants do not necessarily agree with the Examiner's position that the claims in this application are obvious over those of the said patent. However, in order to expedite prosecution, Applicants are filing the accompanying Terminal Disclaimer. Applicants retain the right to contest this position in further applications.

Applicants respectfully request withdrawal of both rejections. Claims 62-64 are renumbered 61-63 as previously discussed with the Examiner.

In addition, Applicants note the above-mentioned comment of the Examiner that the claims are enabling for treatment of autoimmune diseases and allergic conditions, and further note that no art rejections have been issued with respect to claim 1. Applicants had provisionally elected the species of methods of treatment of bacterial infectious diseases, for the sole purpose of commencing examination. Applicants now request that claim 1 be examined in its entirety, and for that purpose request the reinstatement of dependent claims 23-24. To expedite

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prosecution of this application, Applicants have canceled all other nonelected claims, retaining the right to pursue them in subsequent applications.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,

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